

# Court of Appeals, State of Michigan

## ORDER

Loretta Woszczyna v Christina Shouse

Docket No. 296462

LC No. 05-035921-DC

Donald S. Owens  
Presiding Judge

William C. Whitbeck

Alton T. Davis  
Judges

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The Court orders that the motion to dismiss is DENIED. The February 2, 2010 order appealed from is a final order appealable of right as a postjudgment order affecting the custody of a minor by making permanent the award of sole physical custody of the minor child at issue to appellee Robert Smith (appellee). MCR 7.202(6)(a)(iii); MCR 7.203. See also MCR 3.215(E)(1)(c). The claim of appeal was timely filed within 21 days after the February 2, 2010 order. MCR 7.204(A)(1)(a). Further, MCL 722.26c is inapposite because filing an appeal in this Court does not constitute bringing a child custody action. Also, appellee's argument that appellants lack substantive rights to custody of the minor child concerns the merits of appellants' appeal, not whether this Court has jurisdiction over the appeal. Accordingly, such argument is not appropriately considered in the context of a motion to dismiss. See MCR 7.211(C)(2).



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 31 2010  
Date

Sandra Schultz Mengel  
Chief Clerk